

REMARKS

The present Amendment amends claims 1, 9 and 13 and leaves claims 2-8 and 10-12 unchanged. Therefore, the present application has pending claims 1-13.

Applicants' Attorney, the undersigned, wishes to thank Examiner Patrick Moore and Primary Examiner Gary Portka for the courtesy extended during the interviews of April 19, 2006 and May 9, 2006. During such interviews, the restriction due to original presentation as set forth in the March 17, 2006 Office Action was discussed. Particularly, Applicants' Attorney, the undersigned, informed the Examiners that Applicants do not agree with the restriction requirement and was of the opinion that the finality of the Office Action was premature since the March 17, 2006 Office Action rejected claims 9-12 for the first time based on prior art. Specifically, claims 9-12 were rejected under 35 USC §102(e) as being anticipated by Nagasawa (U.S. Patent Application Publication No. 2003/0145169) for the first time. Thus, Applicants' Attorney explained that the rejection of claims 9-12 was a new ground of rejection, thereby making the finality of the March 17, 2006 Office Action improper.

Further, during the interviews, Applicants' Attorney, the undersigned, explained that the restriction requirement appears to be improper since claims 1 and 13 which were already examined, were each simply amended to recite the details of one of the claimed elements, namely the route changing phase and claim 9, which originally depended from claim 1, was merely amended to include the features of claim 1. Further, it was explained that the additional feature recited in claim 9 regarding the verification process is simply a

substep performed before data migration so as to verify the route changes before the data migration is conducted. The Examiner's attention is directed to the paragraph bridging pages 44 and 45 of the present application. Therefore, claims 1, 9 and 13 are each directed to the same invention but of varying scope.

In order to quickly resolve this issue and expedite the prosecution of the present application the present Amendment is being filed as part of a Request for Continued Examination (RCE) so as to amend each of claims 1 and 13 so as to be directed to the invention as originally presented by claims 1-13 which properly recited the verification step as being simply a substep of the route changing phase. Further, claims 1 and 13 are being amended so as to recite in the claims further details of the route changing phase such as that illustrated, for example, in Fig. 7 of the present application. Thus, the amendments made to claims 1, 9 and 13 simply varies the scope of what already had been presented as a claim to be examined.

Claims 1, 9 and 13, wherein claim 9 as originally set forth in the application as filed, are directed to the same invention namely, a method of migrating data from an old storage system to a new storage system, the method including the steps, for example, as illustrated in Fig. 3 of the present application of a route changing phase 303 and a data migration phase 304. Claim 9 which properly depended from claim 1 as originally filed is simply directed to a verification of route changes in the route changing phase before the data migration phase is conducted.

Therefore, the present Amendment is directed to the same invention as originally presented which already received an examination by the Examiner

namely with respect to claims 1, 9 and 13. Therefore, the present Amendment and RCE is proper in accordance with MPEP §821.03 since Applicants are not shifting the invention being claimed to another invention but are amending the claims to be directed to the same invention as that already examined. Therefore, entry of the present Amendment is respectfully requested and examination of the present application based on claims 1-13 as amended is respectfully requested.

The present Amendment as presented herein amends independent claims 1 and 13 to recite features of the present invention not taught or suggested by any of the references of record namely Nagasawa whether taken individually or in combination with each other. Particularly, amendments were made to independent claims 1 and 13 so as to more clearly recite, for example, as illustrated in Fig. 7 of the present application that in the route changing phase an indication of access destination storage sub-systems in the host computers is sequentially changed such that an indication of the access destination storage system of a first host computer is changed from the old storage subsystem to the new storage subsystem, an indication of the access destination storage subsystem of a second host computer is unchanged from the old storage subsystem to the new storage subsystem and then an indication of the access destination storage subsystem of the second host computer is changed from the old storage subsystem to the new storage subsystem after the access destination storage subsystem of the first host computer has been changed, thereby permitting each host computer to access both the old and new storage subsystems.

The above described sequential changing of the indications is illustrated, for example, in Figs. 4a-f of the present application. Particularly, the Examiner's attention is directed to Fig. 4c of the present application wherein it is shown that an indication of the access destination storage subsystem of a first host computer 101a is changed from the old storage subsystem 103a to the new storage subsystem 103b and an indication of the access destination storage subsystem of a second host computer 101b is unchanged from the old storage subsystem 103a to the new storage subsystem 103b.

Thereafter, according to the present invention as illustrated, for example, in Fig. 4d an indication of the access destination storage subsystem of the second host computer 101b is changed from the old storage subsystem 103a to the new storage subsystem 103b after the access destination storage subsystem of the first host computer 101a has been changed. Thereafter, data migration is conducted as per Fig. 4e. Thus, according to the present invention during the route changing phase both the first host computer 101a and the second host computer 101b is permitted to access both the old and the new storage subsystems 103a and 103b respectively as illustrated in Fig. 4c and as recited in the claims wherein an indication of the access destination storage subsystem of a second host computer remains unchanged to the old storage subsystem until after the access destination storage subsystem of the first host computer is changed from the old to the new storage subsystem. Accordingly, an overlap occurs when both old and new storage subsystems are accessed..

The above described features of the present invention as now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, the above described features of the present invention now more clearly recited in the claims are not taught or suggested by Nagasawa whether taken individually or in combination with any of the other references of record.

As set forth in the Remarks of the January 27, 2006 Amendment, said Remarks being incorporated herein by reference, Nagasawa merely teaches a storage subsystem replacement method wherein a storage control device provided in a first storage subsystem controls reading or writing to or from a higher level device to or from the storage control device and to allow the storage control device to be connected to another storage control device so as to transfer data to the other storage device. Nagasawa specifically illustrates in Fig. 10 thereof a system wherein host computers 10a and 10b are allowed to access only the new disk volume 12 through new disk controller 11 or the disk volume 14 through the old disk controller 13 by use of the switch 15. Migration of data as taught by Nagasawa is conducted via the third access path 30-31. Accordingly, in Nagasawa the new disk controller unit 11 performs all processing necessary to obtain data from the old disk controller 13.

In the Office Action the Examiner alleges that Nagasawa teaches that in the route changing phase each host computer is permitted to access both the old and new storage subsystems. To support this alleged teaching, the

Examiner refers to Fig. 2, elements 5e and 50 and paragraph [0013] of Nagasawa.

The above noted teaching of Nagasawa refers to continuing access from an higher level device to a subsystem during switching operation from an old subsystem to a new subsystem. However, how the continued access is accomplished in Nagasawa is entirely different from that of the present invention as now more clearly recited in the claims. In Nagasawa, as described above, all of the host computers continue access to the old storage subsystem via the new storage subsystem. At no point is there any teaching in Nagasawa whatsoever that the host computers are allowed to directly access via the switch both the old storage subsystem and the new storage subsystem and the routings are configured to allow such access as in the present invention as recited in the claims. The claims of the present application specifically recite that the configured routings indications of access destination storage subsystems allows for the host computers to access both the old storage subsystem and the new storage subsystem at the same time. In Nagasawa, the routing only allows the host computers to access the new storage subsystem. There is absolutely no routing information taught by Nagasawa which allows for both host computers to directly access both the old and new storage subsystems as in the present invention.

Thus, Nagasawa fails to teach or suggest in the route changing phase, sequentially changing an indication an access destination storage subsystems in the host computer such that an indication of the access destination storage subsystem of a first host computer is changed from the old storage subsystem to the new storage subsystem, an indication of the access destination storage

subsystem of a second host computer is unchanged from the old storage subsystem to the new storage subsystem, and then an indication of the access destination storage subsystem of the second host computer is changed from the old storage subsystem to the new storage subsystem after the access destination storage subsystem of the first host computer has been changed, thereby permitting each host computer to access both the old and the new storage subsystems as recited in the claims.

Therefore, Nagasawa fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 1-13 as being anticipated by Nagasawa is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the reference utilized in the rejection of claims 1-13.

In view of the foregoing amendments and remarks, applicants submit that claims 1-13 are in condition for allowance. Accordingly, early allowance of claims 1-13 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (1213.43573X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

A handwritten signature in black ink, appearing to read 'Carl I. Brundidge', is written over a horizontal line.

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